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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-sixth session

SUMMARY RECORD OF THE 1373rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 March 2000, at 3 p.m.

Chairman: Mr. SHERIFIS

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GE.00-40984 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7)

Twelfth to fourteenth periodic reports of France (CERD/C/337/Add.5; HRI/CORE/1/Add.17/Rev.1)

1. At the invitation of the Chairman, Mr. de Baynast, Mr. Saint-Paul, Ms. d' Urso, Mr. Capin Dulhoste, Ms. Rocchy, Ms. Benedetti, Mr. Lercher, Ms. Doublet, Ms. Compagnie, Mr. Wilkinson, Mr. Lefeuvre, Mr. Rouzaud and Mr. Cellard (France) took places at the Committee table.

2. Mr. de BAYNAST (France) said that his Government's oral presentation had taken on special significance in view of the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.. Since the previous periodic report, which went back to 1993, the framework and thrust of the fight against all forms of racial discrimination had seen considerable change.

3. One of the most striking recent developments had been the Europeanization of the fight against racial discrimination, a policy which had been included in the Treaty of Amsterdam (art.13). The European Union had shown that it intended to give priority to combating racial discrimination, and had proposed a draft programme of action to that effect and two draft directives, one on implementing the principle of equal treatment without distinction as to race or ethnic origin and another on creating a general framework to promote equal opportunity in employment. Those texts were designed to encompass all forms of discrimination and facilitate victims' access to their rights. The two draft directives introduced the concept of indirect discrimination and gave special attention to harassment. The burden of proof for persons alleging racial discrimination had also been eased. The importance attached to the principle of non-discrimination could also be seen in the draft charter of fundamental rights currently being drawn up. The European Council had recently decided to create a European judicial body, called "Eurojust", to ensure judicial cooperation on a par with that already existing between the European Union's national police forces. France might propose that it be given powers to fight racism and xenophobia with a view to coordinating penal policy in Europe. His Government intended to work towards completion of the above drafts during its forthcoming presidency of the European Council. A proposed amendment to the European Convention on Human Rights would introduce an article prohibiting all forms of discrimination, thereby greatly broadening enforcement of that right in the Council of Europe's member States.

4. Turning to French policy, he said that, although non-discrimination was enshrined in article 1 of the Constitution, his Government was keenly aware of the need to ensure that there was an effective system to put that policy into practice. Although the basic principles underlying anti-discrimination legislation were the indivisibility of the Republic and equality of rights, France had focused its efforts in recent years on more closely coordinating its action with forces active in the fight against racial discrimination and exclusion and giving more individualized attention to the population groups concerned, and it had developed a number of tools to assess both the phenomenon itself and the impact of its policies.

5. One aspect of that effort involved training. The policy of the Ministry of Employment and Solidarity gave priority to combating discrimination in employment and at the workplace, drawing on inputs from the National Consultative Commission on Human Rights (CNCDH). His Government had proposed five guidelines for combating discrimination which had been endorsed by labour and management and which placed emphasis on the training of civil servants, trade union members and employees. Such courses were planned for officials of the French job placement service (ANPE) and the adult training agency (AFPA), the local services of the Ministry of Employment and Solidarity and the national network of youth centres. Persons who worked in reception centres and provided information to the public would be instructed in how to prevent and deal with racial discrimination and, more generally, prepared for an understanding of cultural differences.

6. Specifically, ANPE officials would receive initial and in-service training in how to respond to discriminatory behaviour, pursuant to the agreement on combating racial discrimination signed in 1999 between the French Government, the ANPE and the Social Action Fund. The AFPA's 1999/2000 programme provided for the training, in each of its 280 offices, of one person to act as mediator in situations involving racial segregation. As to the network of local services, staff training units had been set up in 1999 which gave priority to programmes that helped young people in difficulty to find work. The national institute of labour, employment and vocational training would be conducting an awareness campaign in 2000. Future labour inspectors would take a week-long course on issues of racial discrimination as part of their initial training. As in-service training, a seminar was to be held on 8 and 9 March for civil servants working in the employment services the aim being to devise strategies to combat discrimination and draw up a monitoring procedure for labour inspectors.

7. The Government was planning to support initiatives by labour unions to ensure that elected officials of workers' councils and judges on industrial tribunals were more alive to issues of racial discrimination and the need for understanding cultural differences.

8. Training for employees, aimed at raising awareness about the diversity of both staff and public and countering all forms of discrimination in hiring and in labour relations, was intended principally for those responsible for recruitment and career management, and also for staff members detached to give guidance to recently hired colleagues. Pilot projects of that kind had already been carried out in cooperation with the association "Agir contre l'exclusion", with State support. Action to prevent and combat racial discrimination was included in contracts on training objectives concluded between the central Government, the regions and the various occupational sectors.

9. The issue of racial discrimination was included in the initial and in-service training of judges, court officials, officials in charge of the legal protection of minors and prison staff. Today, every court of appeal had an expert on human rights attached to it. Family and juvenile judges took special courses on foreign cultures so as to be in a better position to understand the context in which they were required to take action. Anti-discrimination issues were likewise included in a draft Code of Conduct for prison administrations currently under discussion.

10. A 1998 Ministry of Justice circular, while observing that anti-discrimination legislation was very comprehensive, had asked judges to intensify their efforts to combat racism and work

more closely with the police and associations devoted to combating racism and tailor penal policy to local circumstances. The circular stressed the need to improve the judicial response to new forms of discrimination that had come to light in economic, industrial or commercial spheres of activity and make better use of existing machinery. The impact of the circular was deemed to be positive. Government procurators had been increasingly vigilant in identifying and prosecuting offences based on racism and xenophobia, including press offences and acts of violence against persons or property, and had given instructions to the police to forward any such complaints without delay.

11. At another level, mediation had made it possible to reduce neighbourhood tension on many occasions, and local initiatives in which persons were informed of their rights had yielded positive results, facilitating the social integration of potentially excluded segments of the population. Some public prosecutors had organized workshops with owners of bars and discotheques and with school directors in order to heighten awareness of the need to comply with legislation prohibiting all forms of discrimination. The prosecutor's office of Tours had instituted proceedings against the owners and a doorman of a discotheque for discrimination against persons of North African origin. The persons concerned had been sentenced on 29 April 1999 to the payment of fines ranging from 3,000 to 12,000 francs and compensation to each of the five victims. The case was being appealed. His Government had always been very alive to the question of discrimination against young people. In that connection, he underscored the role of the association SOS Racisme, which had initially brought the Tours case to the attention of the judicial authorities.

12. The Government's policies had begun to bear fruit, because the number of convictions on charges of racial discrimination had risen by 20 per cent, from 97 in 1997 to 115 in 1998. Punishment had also been made more severe: to cite one example, convictions for the offence of uttering racial insults was now punishable by one-and-a-half month's imprisonment and a fine of 7,000 francs, as against one month's imprisonment and a fine of 3,500 francs in 1997.

13. In early 1999 his Government had set up in each department a departmental commission for access to citizenship (CODAC) to help young persons born of immigrant parents to find employment and their place in society and to fight discrimination against them in hiring, housing and leisure activities. The commissions were composed of representatives of the national government, the courts, teachers, labour and management, associations and local elected officials. They served as a forum for exchanging information and discussing discriminatory practices and ways of addressing them. Sometimes they referred cases to the judicial authorities, but also offered mediation and tried to resolve difficulties by consensus. In 1999, 260 cases had been reported to the commissions in 30 departments; some cases had been referred to the prosecuting authorities and 40 had been resolved out of court. Thanks to their efforts, discotheque owners in several departments had committed themselves in writing to refusing all forms of discriminatory admittance practices.

14. A forthcoming conference to be held in Paris on the subject of citizenship and the fight against discrimination would discuss the following topics: combating discrimination in everyday life, access to employment, exercise of citizenship and access to rights and justice. All Ministers

would be involved in preparations for a symposium to be organized in Paris in July 2000 by the National Consultative Commission on Human Rights on the subject of good practices in combating racism; persons active at European Union level would also attend.

15. One major difficulty in combating discrimination was that, owing to their status and ignorance of their rights, the victims themselves were reluctant to report cases of discriminatory practices at work or in their dealings with the administration. With the Act of 10 July 1991, a better instrument had been created for providing legal aid and counselling to persons who could not afford such services. The scope of the departmental Councils of Legal Aid responsible for evaluating needs for access to the law and developing and implementing a relevant aid policy had recently been broadened. They were now known as departmental councils for access to the law and had been assigned the functions of a referral body. Any request for legal action must be communicated to them, even when State financial aid was sought. They were also required to liaise on a permanent basis with the departmental committee responsible for coordinating policies for preventing and combating exclusion, likewise established in 1998. The open-ended councils were composed of representatives of the State, judicial, departmental and district authorities, and of an association active in the field of access to the law, and were chaired by the president of a local court of major jurisdiction. There were also plans to increase the number of legal advice centres to reach out to the victims of discrimination and provide them with information and assistance as necessary.

16. A further area on which the French Government was focusing attention was action to prevent exclusion. The basic constitutional principle of equality before the law for all citizens without any distinction of origin, race or religion had been reactivated by the Act of 29 July 1998 on action to prevent exclusion, which guaranteed effective access to what were deemed basic rights: employment, housing, health protection, the law, education, training and culture, and the protection of the family and children. The other innovative aspect of the Act was the provision it made for coordinating the action of all those involved in preventing and combating exclusion and reporting on the results. It laid down the conditions for allocating subsidized housing and provided for measures to ensure that disadvantaged tenants were able to remain in their rented accommodation and were availed of information and assistance with regard to their rights and, where appropriate, financial aid.

17. The Government was also focusing efforts on the establishment of evaluation tools. France was often reproached for prohibiting data collection on the basis of racial origin and in particular for the absence of tools to assess the effectiveness of French policy to combat racial discrimination. He therefore considered it important to clarify his Government's position on the matter. As could be seen from article 226-19 of the Penal Code, there was no legal provision prohibiting the collection of such data with the consent of the person in question. Such consent was indeed desirable since that person alone was in a position to identify his or her race. Progress was in fact being made in that area, with, for instance, the establishment of the study group on discrimination. The group, set up in May 1999, was to play the role of a monitoring body, carrying out studies and awareness-raising activities. The agreement setting up the group had been signed by the nine ministries, an association representing immigrant workers and their families, a public body (SONACOTRA) and a research group. The group would focus on topics

such as jobs inaccessible to foreigners, procedures for allocating housing, schools with pupils from different ethnic groups, the relationship with the law, awareness-raising and training of civil servants and the access of young immigrants to training contracts.

18. The mandate of the National Consultative Commission on Human Rights (CNCDH) was set out in Act No. 90-165 of 13 July 1990 providing for the punishment of all racist, anti-Semitic or xenophobic acts. Under the Act the Commission was required to submit an annual report to the Prime Minister on action to combat racism and xenophobia. To date, nine reports had been submitted, which were available for consultation by the Committee members. The first part of the most recent report assessed racism and xenophobia on the basis of precise statistical data, a survey on the general public's perception of racism and a study on the specific topic of the employment sector. The Commission thus provided the Government with valuable information on trends in the area of racial discrimination and its multidisciplinary nature ensured the reliability of the information in question. The Commission was also required to advise the Government on international matters. It was worth noting that the previous week, in the light of events in Austria, the Minister of Justice had felt it necessary to consult the Chairman of the National Consultative Commission on Human Rights with regard to suitable action to monitor the resurgence of racist ideologies within the European Union.

19. His delegation hoped to be able to provide all the answers and information required for the Committee's consideration of the fourteenth periodic report. It was not its intention to claim that there was no room for improvement. Inexcusable acts and regrettable or unacceptable situations still existed. In some cases they led to the conviction of the person responsible or even the condemnation of the French Government by the European Court of Human Rights. He trusted that progress had been made in understanding the problems and finding suitable responses. The Committee's very attentive and critical eye was of invaluable assistance to the French Government. France considered that it had a responsibility to combat discrimination since historically it was a country that was a crossroads of different cultures. The Government saw Europe not as a fortress of security but as the way ahead in combating discrimination, particularly against the most vulnerable groups, namely certain foreigners, offering them freedom and justice.

20. The CHAIRMAN thanked the French delegation for its very comprehensive introduction, the text of which might be made available to Committee members for information.

21. Mr. BANTON (Country Rapporteur) drew attention to his written queries and comments on France's twelfth to fourteenth periodic reports contained in document CERD/C/56/Misc.10 (available in English only). Turning to article 1 of the Convention, he noted that, despite assertions by successive heads of the French delegation about the comprehensive nature of French legislation on racial discrimination, the Committee, when considering France's ninth to eleventh periodic reports at an earlier session, had found nothing that prohibited distinctions which were discriminatory in effect. Its recommendation in 1994 that France should strengthen its laws to prohibit actions that had such an effect did not appear to have been given due consideration in the fourteenth periodic report.

22. On the subject of visa regulations, he inquired whether the restrictions imposed by France on the availability of visas satisfied the criteria of serving a legitimate aim, having a legal basis

in the law and embodying a reasonable relationship of proportionality between the means employed and the aim sought. France also imposed certain obligations on airlines and other transnational carriers. What steps were being taken to ensure that the rights of would-be entrants were sufficiently protected? With regard to applications for asylum, what measures guaranteed that applications by Roma people received individual attention?

23. It appeared that, although in France there were many NGOs active in the field of racial discrimination in connection with immigration, there was less activity in relation to the rights enshrined in article 5 of the Convention. According to a memorandum he had received from the Association of Christians for the Abolition of Torture (ACAT), the percentage of asylum-seekers interviewed between 1994 and 1999 by those responsible for reviewing applications had fallen significantly. ACAT drew attention to the recommendations of the National Consultative Commission on Human Rights that article 16 of the 1986 immigration act should be repealed and individual reasons be given for refusal of visas. It called for a distinction to be drawn between those who assisted immigrants for humanitarian reasons and others involved in unlawful activities. The memorandum discussed the deportation of immigrants who had committed offences and raised important issues about the possibilities of appealing against deportation orders. It provided grounds for concluding that in the department of French Guyana, the repressive elements of French legislation were applied whereas the protective ones were often ignored. He suggested that the French delegation should submit replies in writing, as part of France's fifteenth periodic report due in August 2000.

24. His impression of inequity between immigration and article 5 issues was reinforced by information contained in a report by the Ligue française des droits de l'homme which stated that, of the 1,339 applications for territorial asylum submitted in 1998, mostly from Algerians, only 8 applications had been granted. Was that a sufficient statement of the action France had been taking in respect of territorial asylum cases? Paragraph 6 of France's fourteenth report (CERD/C/337/Add.5) made no reference whatsoever to territorial asylum, yet when there were two different procedures for asylum, constitutional and territorial, it gave rise to discrimination in effect.

25. With reference to article 3 of the Convention, he asked whether it could be considered unlawful for a parent to request the transfer of a child to another school because of predominance of a certain ethnic group in the class. Similarly, if an education authority were to accede to such a request would that also be considered unlawful? If there was a disproportionate representation of children of foreign origin in one school, constituting ethnic segregation, could an anti-racist association initiate legal proceedings?

26. With respect to article 5 (a), he asked whether the Committee's request in 1994 for further information on judicial decisions relating to racial discrimination including payment of compensation had been overlooked by the French Government in its preparation of the fourteenth periodic report.

27. In connection with article 5 (b), the statement in his own comments (CERD/C/56/Misc.10) to the effect that persons detained in French police stations were routinely beaten was unjustified. However, having consulted the relevant report of the Council of Europe's Committee against Torture, he considered that there were still grounds for concern

about police malpractice and wondered, given the absence of information in the fourteenth periodic report, whether the French Government shared such concerns. According to ACAT, the 1998 Code of Conduct for Police Officers had not been adequately distributed and police officers interviewed were not familiar with it. The reference to non-discrimination in the Code of Conduct was very brief and not supported by references to the law or international norms. Like ACAT, he was sceptical about its usefulness and given his experience of police training and discipline in other countries, concluded that France had not yet fulfilled its obligations under article 5 (b). A further aspect which should be taken into consideration that had also been overlooked in the fourteenth periodic report was the protection required by women and children against threats from strangers and members of their own social groups, such as male relatives who insisted they should conform to the customs of their homeland countries.

28. With regard to article 5 (e), had the Committee's recommendations to ensure that there was no discrimination in the employment sector been followed up? He drew attention to the virtual absence of convictions for violating the right to work without discrimination. The guide to anti-racist legislation provided in an annex to the fourteenth periodic report mentioned the possibility of referring alleged violations to industrial tribunals, yet there was no reference to such matters in the report proper. What exactly was the role of those industrial tribunals and were they put to sufficient use?

29. Although sexual discrimination did not fall within the purview of the Committee, measures for counteracting both forms of discrimination could usefully be combined. In cases of sexual discrimination, the European Council recommended that the burden of proof should be placed on the person against whom the discriminatory act was alleged once the complainant had produced sufficient evide ıce of a breach of the principle of equal treatment; the International Labour Organization was also moving in that direction. Did the French Labour Code provide such protection in cases of alleged sexual discrimination and, if so, could the same procedures be applied in cases of racial discrimination?

30. A recent article on racial discrimination in Le Monde Diplomatique referred to young men who had been unable to get job interviews un il they changed their Arabic-sounding names to a more French-sounding surname. The head of .he French delegation had implied that the French Government was very vigilant about matters of discrimination in access to employment, but it emerged from that article that such vigilance was futile owing to the requirements for proof of such discrimination under existing legislation. The article was in fact somewhat misleading when it spoke of convictions under the British system. In the United Kingdom many of the cases of alleged discrimination at work were settled out of court, even those that reached the industrial tribunals. There were no penal convictions made for racial discrimination at work in the United Kingdom since such matters were dealt with under civil proceedings. Cases were taken to court not by the Commission for Racial Equality, but by the victims themselves, with or without financial assistance from that Commission or trade unions. The French Government might have something to learn from such procedures. The article in question expected that a solution to the problem of discrimination at work might be found in European law, which tied in with the remarks by the head of the French delegation in his introductory statement. He suggested that the French Government should delay no longer and review its own legislation rather than waiting for a solution at European level.

31. With reference to article 5 (e) (iii), in 1994 the Committee had recommended the introduction of legislation to provide effective protection against racial discrimination with regard to housing. The CNCDH reported that despite the daily cases of such discrimination in France only one conviction had thus far been made. Moreover the current practice by housing authorities of allocating an apartment vacated by one immigrant to another, while continuing to restrict access to new ones vacated by French nationals on the basis of quotas, was discriminatory in effect. The fourteenth periodic report contained no information on that vitally important subject.

32. He was disappointed at the information provided in the report on the right to public health (art. 5 (e) (iv)). More information on the practical difficulties involved was necessary.

33. With regard to the right to education (art. 5 (e) (v)), given that schooling was compulsory until the age of 16, what estimate could be provided of the proportion of Roma children attending school up to that age? In the sphere of cultural activities (art. 5 (e) (vi)), particularly sport, there was reportedly no effective judicial remedy for racial discrimination, yet discrepancies existed between the law and practice. Since sport played a very important role in society and was a breeding ground for racial discrimination, did the French Government intend to take any steps to address the problem? The racial diversity of the French cup-winning football team had been an occasion for satisfaction, yet in other professions in the public eye, such as the media, the situation was very different. Although the French Government could not be held responsible for such matters, it should be concerned.

34. While he welcomed the positive developments with respect to the right to service (art. 5 (f)), described in detail in the introductory statement, he asked whether there were any grounds for revoking the operating licence of persons allegedly practising racial discrimination. As far as article 5 was concerned in general, would the French Government consider supplementing the criminal law with remedies that relied upon civil procedures under the Labour Code and upon administrative law? Concerning the comments made by the head of the delegation in the introductory statement about the registration of data concerning a person's racial or ethnic origin he would draw attention to the Committee's General Recommendation No. VIII, according to which identification should be based on self-identification by the individual concerned. The principles of European law he had referred to were based on cases relating to sexual discrimination, but before long would be extended to racial discrimination. The French Government would therefore need to stand ready to bring its legislative practice into line with the requirements of the European Union.

35. With respect to articles 2, 6 and 7, the State had the obligation to ensure that effective measures were taken. Was there any reason to believe that the remedies described in the report were effective? If educational policy was so enlightened, then why did so many young people express racial prejudice and engage in racial harassment? Judging from two high school (lycée) textbooks supplied by the Ligue française des droits de l'homme, it would appear that short shrift was given to the place of Islam. If that was the case in the lycées, how much was taught to students at other institutions?

36. The CHAIRMAN, speaking in his capacity as a member of the Committee, pointed out that France had many years before made the declaration under article 14, yet the Committee had

never received a single communication from an individual or group of individuals. Could the delegation explain why? Was the availability of such recourse known to the intended beneficiaries? France was to be commended for being the first country to have ratified the amendments to article 8, paragaph 6, of the Convention.

37. Mr. DIACONU said that the Committee expected much from France, which had a long tradition in the vanguard of democracy and human rights. In the past half century it had also attracted a large number of immigrants and had become a multi-ethnic and multiracial society. The Government had undertaken comprehensive measures against social exclusion and to promote integration and basic rights, had encouraged the work of associations and civil society and had established the National Consultative Commission on Human Rights which worked hand in hand with the numerous associations, as well as departmental Councils of Legal Aid. It was indeed remarkable that under French law, any association which had been duly declared for at least five years and whose objectives, as set forth in its statutes, included combating racism was able to bring proceedings on behalf of the victims of racist or discriminatory acts. France was one of the few countries which had established criminal liability of corporate entities and the sanctions which applied to them.

38. The report provided data on the nationalities of foreigners residing legally in France, but no information on the national and ethnic composition of French citizens and the number and breakdown of illegal aliens. As the report, and indeed French law and the Court of Cassation, referred to "ethnic groups" in France, it would be useful to know which ethnic groups existed. There was a reference to the Roma, and the Country Rapporteur had said that the number of Roma in France was estimated at somewhere between 280,000 and 340,000. Since the Committee was considering the possibility of holding a special debate on the situation of the Roma, information on the size of the Roma population, the extent to which it was nomadic and its economic and social situation would be of interest.

39. The report referred to apartheid but failed to address racial segregation, which was also covered by article 3. Did such segregation exist in France, and what action could the Government and national associations take to counter it? France had a very thorough and detailed body of legislation which fulfilled all the requirements of article 4. Why, then, did the Government maintain the reservation which France had made when it had ratified the Convention? It appeared that the provisions against publicly defending or disputing the existence of crimes against humanity and against revisionism and negationism applied only to those crimes committed in the Second World War. Yet such crimes had been committed since. Why were those provisions not applicable in the case of Bosnia and Herzegovina, Rwanda, or elsewhere? The report mentioned efforts undertaken to teach native languages to foreign children in French public schools, but also stated that certain errors had been made, without specifying which. What sort of problems had arisen, and how would the Government deal with them? Lastly, there had apparently been some progress in the teaching of the regional languages native to France and the overseas departments and territories. Was there any specific information on the use of such languages? Had any studies been undertaken on that subject?

40. Mr. NOBEL, pointing out the important role France played in the elimination of racial discrimination and the obligation placed upon it under article 9 of the Convention, expressed disappointment at the late submission of the twelfth to fourteenth reports, and hoped that the

French Government would set an example to other States by submitting future reports on time. With regard to immigration, there was a very serious danger that the so-called "Shengen spirit" might lead to a divisive mentality, according to which European immigrants were desirable and others from non-member States were not. The notion itself appeared to contain the seeds of racism, and it was necessary in implementing immigration policy to take the utmost care to eradicate any racist elements that might emerge.

41. According to the information submitted by ACAT, asylum-seekers in France enjoyed few legal guarantees against expulsion. Asylum policy was in part subsumed under immigration policy, which was highly unfavorable to applicants. Moreover, the authorities showed a lack of interest in the living conditions of asylum-seekers. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), processing was seriously underfunded at every stage. Physical conditions at entry points were poor, fewer than 40 per cent of asylum-seekers had interviews with the Office for the Protection of Refugees and Stateless Persons (OFPRA) before a position was taken in their cases, and in 1999 only 3,600 beds had been available to accommodate some 30,000 asylum-seekers. Although in 1998 the Government had adopted new regulations which gave refugee status to persons persecuted for their pursuit of freedom, fewer than 20 cases had been processed since.

42. Having learned that the authorities applied sanctions to airlines and other carriers which transported undocumented aliens to France, he asked how a Government could justify delegating to private companies its State responsibilities under the 1951 Convention relating to the Status of Refugees. An NGO had reported that there were as many as 62,000 persons who had no legal status but whose presence was tolerated (clandestins officiels), at least as long as they did not assert their rights or cause any problems. Could the delegation comment on their number and situation?

43. While the measures taken recently to ease formalities for foreign families in France were commendable, most of those provisions were long-standing requirements under article 8 of the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms. The report also stated that asylum-seekers from countries to which the Geneva Convention's cessation clause applied would no longer be granted temporary residence permits and other advantages. Did that cover persons who had already spent years in France with their families? Specifically, what time limits applied?

44. Mr. FALL noted that since 1996 France had implemented a clear policy aimed at combating racism. France was an ethnically diverse society because of the country's historical role as a place of immigration. Some subjects of concern remained, and it was good that the Government recognized them. The numerous associations which worked to combat racism were to be commended for their action, which had done much to reduce the phenomenon in France.

45. There remained persistent discrimination against immigrants with regard to housing. During identity checks, police brutality was reportedly used widely against persons because of their physical appearance or race, and the French immigration authorities regularly turned back certain persons arriving at French airports, particularly Africans, even though they held valid visas issued by French consulates. For them, obtaining a visa could be a long and tortuous process, and refusal of entry at French airports on grounds, for instance, of a lack of knowledge

of the French language was unjust. Perhaps the French authorities should issue instructions to the police and immigration authorities to rectify that situation. He also mentioned the excessively lengthy waiting periods for asylum-seekers and the disturbing situation of undocumented aliens.

46. Mr. BRYDE commended the French Government for presenting a report which openly addressed issues related to immigration. In Europe, immigration policy was often used as a pretext for racially discriminatory practices, and that was even more of a problem when jus sanguinis applied. France was therefore to be commended for restoring jus soli in the republican tradition. While France had a near-perfect body of legislation with which to combat racial discrimination, in reality discrimination against immigrants and immigrant communities persisted in housing, employment and education. That discrepancy raised questions about the effectiveness of the law, particularly penal law. Did the Government have any means of evaluating progress in fighting xenophobia and racial discrimination in the light of legal instruments? Did it consider the relative merits of penal and other forms of law?

47. While the report extensively described French policy against social exclusion, it offered little information on affirmative, targeted, remedial measures taken to meet the specific needs of certain disadvantaged segments of the population. The Committee against Torture had found that there were cases of ill-treatment by law enforcement officers and prison guards, and the victims of such cases brought before the European Court of Human Rights were often non-European. The Government had mentioned legal provisions and educational efforts to make the police sensitive to the problem, but had it considered taking measures to encourage the recruitment of more ethnically diverse personnel in such services?

48. Mr. LECHUGA HEVIA noted that it had not been possible to eliminate racist manifestations in France despite the measures taken against them at the national and European levels. The Minister of Justice had laudably called for greater vigilance on the part of public prosecutors and procurators-general and for tailoring penal policy to local circumstances. However, the Committee needed to know how such measures were reflected in practice.

49. Immigration policy was one of the most controversial issues. While every country had the right to control immigration and determine the difference between political and economic refugees, the Committee was particularly interested in the treatment, guarantees and rights reserved for both categories. The report referred to the adoption on 11 May 1998 of a new law on aliens and the right to asylum, but offered little information on the practical implications it had had. As to social exclusion, while average income in France had risen by some 33 per cent, the proportion of households living below the poverty threshold had remained the same. What was their situation? Ethnic minorities would presumably be heavily represented among the population living beneath the poverty line. What measures were being considered to improve their plight?

50. The Government's funding of associations working against racism was praiseworthy, but the report offered no precise information on measures taken under article 4 (b) to declare illegal and prohibit organizations which promoted and incited racial discrimination, apart from a reference to a 1936 law empowering the President of the Republic to dissolve such organizations

by decree. The fact that one organization had been thus dissolved not once but three times would seem to indicate the ineffectiveness of that procedure. How did France meet the requirements of article 4, which was a key provision of the Convention?

51. Lastly, the situation of asylum-seekers was of grave concern. There was a lack of resources to deal with asylum requests. Could the delegation provide further information on the Government's approach to improve conditions?

52. Mr. PILLAI paid tribute to France's long tradition of defending democratic ideals. In that context, he referred to the vital role played by political parties in promoting democratic values and eliminating racial and sexual discrimination. During election campaigns, however, political parties sometimes forgot that role and he wondered how the political parties in France conducted themselves during elections and whether minorities were represented in the parties and had some influence on the parties' platforms.

53. Civil servants working in areas which affected civil and political rights, which were just as important as economic, social and cultural rights, played an important role in the elimination of racial discrimination. Although the report described measures adopted by the Government to increase awareness of discrimination and human rights among civil servants, he wondered what specific actions had been taken when abuses of human or civil rights, for example by the police, had been found.

54. Mr. YUTZIS, referring to paragraph 24 of the report, requested more statistics on the numbers of asylum-seekers, and asked how many applications were successful. He also asked for a clearer explanation of the differences between the various types of asylum, such as constitutional and territorial asylum, as mentioned in paragraphs 26 and 27.

55. With regard to education, it would be of interest to know what efforts had been made to include both Christian and Islamic points of view in school curricula.

56. He noted the Government's intention to fight exclusion, a term which encompassed a wide variety of situations, but requested more specific information on how it intended to do so. He pointed out that exclusion occurred not only on the psycho-sociological level, through ostracism and exclusion from society, but also included abuses such as denial of the right to work, to adequate lodging and to health. More facts would be useful in helping the Committee better understand exactly what groups were being served by the Government's efforts to fight exclusion.

57. He asked how well represented ethnic groups were in the police, since under-representation contributed to misunderstanding and aggravated tension between the police and ethnic groups. He deplored the fact that members of ethnic groups arrested for crimes were often punished twice over in that they received prison sentences and were also deported at the end of their sentences. That situation was intolerable and would seem to be an example of discrimination in effect.

58. All multiracial societies ran the risk of having to deal with political organizations based purely on racist or discriminatory principles. He therefore expressed concern at the strength of

the Front National in recent elections. He wondered whether the Government's efforts to eliminate exclusion were truly effective and noted that in market economies the risk of exclusion was greater for those who were not able to share in economic progress.

59. Mr. ABOUL-NASR, referring to paragraphs 130 to 137 of the report, inquired about the distinction between the notions of "defending" and "disputing the existence of" crimes against humanity. He noted that the paragraphs in question referred only to the Holocaust during the Second World War but stressed that crimes against humanity had occurred before the Second World War and continued to occur. For example, he wondered whether crimes against the Roma people, against Aboriginals or the crimes perpetrated in Bosnia and Herzegovina would also be covered by the relevant French legislation on crimes against humanity. His point of view was less Eurocentric and his only guide was the terms of the Convention. Any legislation which attempted to limit the notion of crimes against humanity to one group or one incident would be a violation of the Convention.

60. The members of the delegation of France withdrew.

ORGANIZATIONAL AND OTHER MATTERS (continued)

61. The CHAIRMAN recalled that Mr. Banton had requested a special debate on the situation of the Roma people and suggested that an open-ended working group composed of Mr. Banton, Mr. Diaconu, Mr. Valencia Rodriguez, and Ms. January-Bardill should consider the advisability of that proposal and report back to the Committee.

62. It was so decided.

63. The CHAIRMAN said that some members had expressed concern that not enough time had been allotted for communications under article 14 but reassured members that the Committee would take whatever time was needed to deal with communications. He asked Mr. Nobel to consult with other members on whether they preferred to appoint one rapporteur or a small working group of three persons to deal with communications, in the light of the expanding workload in that area.

The meeting rose at 6 p.m.